

TITLE 6 TAXATION

Chapters:

- 6-1 Uniform Local Sales and Use Tax
 - 6-2 Local Charge on Public Service Providers
 - 6-3 Municipal Energy Sales and Use Tax
 - 6-4 Transient Room Tax
-

CHAPTER 6-1

UNIFORM LOCAL SALES AND USE TAX

Sections:

- 6-1-101. Short Title.
 - 6-1-102. Purpose and Intent.
 - 6-1-103. Sales and Use Tax Levied.
 - 6-1-104. Incorporation of Part 1, Chapter 12, Title 59, Utah Code, Including Amendments.
 - 6-1-105. Contract with State Tax Commission.
 - 6-1-106. Exemption From Tax.
 - 6-1-107. Tax Paid Not Part of Purchase Price.
 - 6-1-108. Mayor Authorized.
 - 6-1-109. Report of Tax Collections - Point of Sale - Public Utilities.
 - 6-1-110. Effective Date of Tax and Continuation of Previous Ordinances.
-

6-1-101. SHORT TITLE.

This Chapter shall be known as the "West Valley City Local Sales and Use Tax." This Chapter shall also be known as Chapter 1 of Title 6, West Valley City Code. It may be cited and pleaded under either designation.

6-1-102. PURPOSE AND INTENT.

The revenue generated by the tax imposed by this Chapter shall be used, to the greatest extent possible, as determined solely by the City Council, to finance capital out by requirements and to service bonded indebtedness.

6-1-103. SALES AND USE TAX LEVIED.

- (1) There is levied and there shall be collected and paid a tax on every retail sale of items listed in Section 59-12-103, Utah Code Annotated 1953, as amended, made within the City at the rate of one percent (1%), commencing retroactive to 12:01 o'clock a.m., January 1, 1990.
- (2) There is levied and there shall be collected and paid an excise tax on the storage, use, or other consumption within West Valley City, of tangible personal property or any items listed in Section 59-12-103, Utah Code Annotated 1953, as amended, at the rate of one percent (1%), commencing retroactive to 12:01 o'clock a.m., January 1, 1990.

6-1-104. INCORPORATION OF PART 1, CHAPTER 12, TITLE 59, UTAH CODE, INCLUDING AMENDMENTS.

- (1) Except as herein provided, and except insofar as they are inconsistent with the provisions of the Local Sales and Use Tax Act, all of the provisions of Part 1, Chapter 12, Title 59, Utah Code Annotated 1953, as amended, and in force and effect on the effective date of this Chapter, insofar as they relate to sales taxes, excepting Sections 59-12-101 and 59-12-119 thereof, and excepting for the amount of the sales tax levied therein, are hereby adopted and made a part of this Ordinance as though fully set forth herein.

- (2) Wherever, and to the extent that in Part 1, Chapter 12, Title 59, Utah Code Annotated 1953, as amended, the State of Utah is named or referred to as the "taxing agency," the name of this City shall be substituted therefor. Nothing in this subparagraph (2) shall be deemed to require substitution of the name of the City for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of Utah, nor shall the name of the City be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the City or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of this Chapter.
- (3) Any amendments made by the Utah Legislature to Part 1, Chapter 12, Title 59, Utah Code Annotated 1953, as amended, which would be applicable to the City are hereby incorporated herein by reference and shall be effective upon the date they are effective as a Utah statute.

6-1-105. CONTRACT WITH STATE TAX COMMISSION.

Heretofore, this City has entered into an agreement with the State Tax Commission to perform all functions incident to the administration or operation of the Sales and Use Tax Ordinance of the City. That contract is hereby confirmed and the Mayor is hereby authorized to enter into such supplementary agreement with the State Tax Commission as may be necessary to the continued administration and operation of the Sales and Use Tax Ordinance of the City as enacted by this Chapter.

6-1-106. EXEMPTION FROM TAX.

The sale, storage, use, or other consumption of tangible personal property, the gross receipts from the sale of or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with Part 2, Chapter 12, Title 59, Utah Code Annotated 1953, as amended, by a county other than Salt Lake County or by any other Utah city or town shall be exempt from the tax.

6-1-107. TAX PAID NOT PART OF PURCHASE PRICE.

The amount of any tax paid under Part 1, Chapter 12, Title 59, shall not be included as a part of the purchase price paid or charged for a taxable item hereunder.

6-1-108. MAYOR AUTHORIZED.

The Mayor is authorized to execute whatever documents are necessary to distribute sales and use tax revenues on the combination of point of sale and population factors set forth in Section 59-12-205, Utah Code Annotated 1953, as amended.

6-1-109. REPORT OF TAX COLLECTIONS – POINT OF SALE – PUBLIC UTILITIES.

All sales and use taxes collected under this Chapter shall be reported to the Commission on forms which accurately identify the location where the sale or use transaction was consummated. If a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated for the purposes of this Chapter shall be determined under rules of the Commission. Public utilities as defined by Title 54, Utah Code Annotated

1953, as amended, are not obligated to determine the place or places within the county where public utility services are rendered, and the State Tax Commission shall apportion the revenues arising from such services, on an equitable basis pursuant to an appropriate formula and under rules to be prescribed and adopted by it.

6-1-110. EFFECTIVE DATE OF TAX AND CONTINUATION OF PREVIOUS ORDINANCES.

The sales and use tax imposed under this section shall be retroactive to 12:01 o'clock a.m., January 1, 1990. The provisions of the predecessor Sales and Use Tax Ordinance of the City which is repealed hereby shall be deemed to have continued effective until 12:00 o'clock midnight, December 30, 1989. The provisions of this Ordinance which are not in conflict with the former Ordinance shall be deemed to be a continuation thereof and any rights, duties and obligations arising thereunder shall not in any way be deemed abrogated or terminated.

CHAPTER 6-2

LOCAL CHARGE ON PUBLIC SERVICE PROVIDERS

Sections:

- 6-2-101. Local Charge Levied on Public Service Providers.
- 6-2-102. Definitions.
- 6-2-103. Report and Payment of Local Charge.
- 6-2-104. Limit on local charge which is passed on to any entity by the public service provider and which is imposed on any public service provider.

6-2-101. LOCAL CHARGE LEVIED ON PUBLIC SERVICE PROVIDERS

There is hereby levied upon public service providers, a local charge equal to six percent of the gross revenue derived from sales, use, or both sales and use of the service within the corporate limits of West Valley City.

(Ord. No. 94-79 Amended 08/15/94; Ord. No. 00-27 Amended 04/25/2000)

6-2-102. DEFINITIONS.

- (1) "Gross Revenue" means the revenue derived from sales, use, or both sales and use of the service of public service providers within the City.
 - a. The determination of gross revenues under this Section may not include:
 - i. the sale of gas or electricity as special fuel for motor vehicles;
 - ii. the sale of telephone service provided by a public utility regulated by the Utah Public Service Commission other than:
 - 1. exchange access services;
 - 2. extended area service;
 - 3. customer access line charges; and
 - 4. any services for which a tax or other charge was being paid pursuant to Sections 11-26-1 et seq. Utah Code Annotated, 1953 as amended as of January 1, 1992; or
 - iii. a local charge.
- (2) "Exchange access services" means telephone exchange lines or channels, and services provided in connection with them, which are necessary to provide access from the premises of a subscriber to the local switched public telecommunications network of the public utility to effect communication or the transfer of information.
 - a. "Exchange access services" does not include:
 - i. private line services;
 - ii. long distance toll services;
 - iii. carrier access services;
 - iv. telephonic services that are not regulated by the Utah Public Service Commission; and
 - v. services that emulate functions available in customer premises equipment.
- (3) "Local charge" means the charge levied in Section 6-2-101.
- (4) "Public Service Provider" means:

- a. a public utility; or
- b. a person or entity engaged in the business of supplying:
 - i. telephone service; or
 - ii. taxable energy as defined in Section 10-1-303 Utah Code Annotated, 1953 as amended.

(Ord. No. 97-31 Amended 06/30/1997; Ord. No. 00-27 Amended & Renumbered 04/25/2000)

6-2-103. REPORT AND PAYMENT OF LOCAL CHARGE.

Within 45 days after the close of each month in a calendar year, any public service provider charged hereunder shall file with the City Treasurer of the City a report of its gross revenue derived from sales, use, or both sales and use of the service during the month in the City as defined herein, together with a computation of the local charge. Coincidental with the filing of such report, the public service provider shall pay to the City Treasurer the amount of the local charge.

(Ord. No. 00-27 Amended & Renumbered 04/25/2000)

6-2-104. LIMIT ON LOCAL CHARGE WHICH IS PASSED ON TO ANY ENTITY BY THE PUBLIC SERVICE PROVIDER AND WHICH IS IMPOSED ON ANY PUBLIC SERVICE PROVIDER.

- (1) The maximum amount of the aforementioned local charge that may be passed on to any individual entity or user of any service described in Sections 6-2-101 shall be \$1,900 within any fiscal year for each separate account billed to the individual entity or user account.
- (2) Once an individual entity or user of any service described in Sections 6-2-101 has had passed on to it a local charge totaling the maximum amount set forth in Subsection 6-2-104(1) above attributable to any single account for services by a public service provider in any fiscal year, the public service provider shall have no further local charge liability to the City with respect to the gross revenues collected from the individual entity or user attributable to the single account.

(Ord. No. 00-27 Amended & Renumbered 04/25/2000)

CHAPTER 6-3

MUNICIPAL ENERGY SALES AND USE TAX

Sections:

- 6-3-101. Purpose.
- 6-3-102. Definitions.
- 6-3-103. Municipal Energy Sales and Use Tax.
- 6-3-104. Exemptions from the Municipal Energy Sales and Use Tax.
- 6-3-105. No Effect Upon Existing Franchises -- Credit for Franchise Fees.
- 6-3-106. Tax Collection Contract with State Tax Commission.
- 6-3-107. Incorporation of Part 1, Chapter 12, Title 59, Utah Code, Including Amendments.
- 6-3-108. No additional license to collect the municipal energy sales and use tax required -- no additional license or reporting requirements.
- 6-3-109. Effective Date.

6-3-101. PURPOSE.

It is the intent of West Valley City to repeal its utility franchise tax levied on gas and electricity and adopt the municipal energy sales and use tax pursuant to, and in conformance with, Section 10-1-301, et seq., Utah Code Annotated 1953, as amended, "The Municipal Energy Sales and Use Tax Act."

(Ord. No. 97-31 Enacted 06/30/1997)

6-3-102. DEFINITIONS.

- (1) "Consumer" means a person who acquires taxable energy for any use that is subject to the Municipal Energy Sales and Use Tax.
- (2) "Contractual Franchise Fee" means:
 - a. A fee:
 - i. Provided for in a franchise agreement; and
 - ii. That is consideration for the franchise agreement; or
 - b. A fee similar to Subsection (2)(a); or
 - i. Any combination of Subsections (2)(a) or (2)(b).
 - ii. "Delivered Value" means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:
- (3) The value of the energy itself; and
 - a. Any transportation, freight, customer demand charges, services charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality.
 - b. "Delivered Value" does not include the amount of a tax paid under Part 1 or Part 2 of Chapter 12, Title 59 of the Utah Code.
- (4) "Energy Supplier" means a person supplying taxable energy, except for persons supplying a de minimus amount of taxable energy, if such persons are excluded by rule promulgated by the State Tax Commission.
- (5) "Franchise Agreement" means a franchise or an ordinance, contract, or agreement granting a franchise.
- (6) "Franchise Tax" means:

- a. A franchise tax;
 - b. A tax similar to a franchise tax; or
 - c. Any combination of Subsections (a) or (b).
- (7) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.
- (8) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of taxable energy for a consideration. It includes:
 - a. Installment and credit sales;
 - b. Any closed transaction constituting a sale;
 - c. Any transaction under which right to acquire, use, or consume taxable energy is granted under a lease or contract and the transfer would be taxable if an outright sale were made.
- (9) "Storage" means any keeping or retention of taxable energy in the City for any purpose except sale in the regular course of business.
- (10) "Use" means the exercise of any right or power over taxable energy incident to the ownership or the leasing of the taxable energy.
 - a. "Use" does not include the sale, display, demonstration, or trial of the taxable energy in the regular course of business and held for resale.
- (11) "Taxable Energy" means gas and electricity.

(Ord. No. 97-31 Enacted 06/30/1997)

6-3-103. MUNICIPAL ENERGY SALES AND USE TAX.

There is hereby levied, subject to the provisions of this chapter, a tax on every sale or use of taxable energy made within West Valley City equaling six percent (6%) of the delivered value of the taxable energy to the consumer. This tax shall be known as the Municipal Energy Sales and Use Tax.

- (1) The tax shall be calculated on the delivered value of the taxable energy to the consumer.
- (2) The tax shall be in addition to any sales or use tax on taxable energy imposed by West Valley City authorized by Title 59, Chapter 12, Part 2 of the Utah Code, The Local Sales and Use Tax Act.

(Ord. No. 97-31 Enacted 06/30/1997)

6-3-104. EXEMPTIONS FROM THE MUNICIPAL ENERGY SALES AND USE TAX.

- (1) No exemptions are granted from the Municipal Energy Sales and Use Tax except as expressly provided in Section 10-1-305(2)(b) of the Utah Code; notwithstanding an exemption granted by Section 59-12-104 of the Utah Code.
- (2) The following are exempt from the Municipal Energy Sales and Use Tax, pursuant to Section 10-1-305(2)(b) of the Utah Code:
 - a. Sales and use of aviation fuel, motor fuel, and special fuels subject to taxation under Title 59, Chapter 13 of the Utah Code;
 - b. Sales and use of taxable energy that is exempt from taxation under federal law, the United States Constitution, or the Utah Constitution;
 - c. Sales and use of taxable energy purchased or stored for resale;

- d. Sales or use of taxable energy to a person, if the primary use of the taxable energy is for use in compounding or producing taxable energy or a fuel subject to taxation under Title 59, Chapter 13 of the Utah Code;
 - e. Taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;
 - f. The sale or use of taxable energy for any purpose other than as a fuel or energy; and
 - g. The sale of taxable energy for use outside the boundaries of the City.
- (3) The sale, storage, use, or other consumption of taxable energy is exempt from the Municipal Energy Sales and Use Tax levied by this chapter, provided:
- a. The delivered value of the taxable energy has been subject to a municipal energy sales or use tax levied by another municipality within the state authorized by Title 59, Chapter 12, Part 3 of the Utah Code; and
 - b. The City is paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this chapter, if the tax due under this chapter exceeds the tax paid to the other municipality.

(Ord. No. 97-31, Enacted, 06/30/1997)

6-3-105. NO EFFECT UPON EXISTING FRANCHISES -- CREDIT FOR FRANCHISE FEES.

- (1) This chapter shall not alter any existing franchise agreements between the City and energy suppliers.
- (2) There is a credit against the tax due from any consumer in the amount of a contractual franchise fee paid if:
 - a. The energy supplier pays the contractual franchise fee to the City pursuant to a franchise agreement in effect on July 1, 1997;
 - b. The contractual franchise fee is passed through by the energy supplier to a consumer as a separately itemized charge; and
- (3) The energy supplier has accepted the franchise.

(Ord. No. 97-31 Enacted 06/30/1997)

6-3-106. TAX COLLECTION CONTRACT WITH STATE TAX COMMISSION.

- (1) On or before the effective date of this chapter, the City shall contract with the State Tax Commission to perform all functions incident to the administration and collection of the Municipal Energy Sales and Use Tax, in accordance with this chapter. This contract may be a supplement to the existing contract with the Commission to administer and collect the Local Sales and Use Tax, as provided in Section 6-1-105 of the City Code. The Mayor, with the approval of the City Manager and City Attorney, is hereby authorized to enter supplementary agreements with the State Tax Commission that may be necessary to the continued administration and operation of the Municipal Energy Sales and Use Tax Ordinance enacted by this chapter.
- (2) An energy supplier shall pay the Municipal Energy Sales and Use Tax revenues collected from consumers directly to the City monthly if:
 - a. The City is the energy supplier; or

- b. The energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah consumers equals \$1,000,000 or more, and
 - i. The energy supplier collects the Municipal Energy Sales and Use Tax.
- (3) An energy supplier paying the Municipal Energy Sales and Use Tax directly to the City may deduct any contractual franchise fees collected by the energy supplier qualifying as a credit and remit the net tax less any amount the energy supplier retains as authorized by Section 10-1-307(4) of the Utah Code.

(Ord. No. 97-31 Enacted 06/30/1997)

6-3-107. INCORPORATION OF PART 1, CHAPTER 12, TITLE 59, UTAH CODE, INCLUDING AMENDMENTS.

- (1) Except as herein provided, and except insofar as they are inconsistent with the provisions of Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, as well as this chapter, all of the provisions of Part 1, Chapter 12, Title 59 of the Utah Code, and in force and effect on the effective date of this chapter, insofar as they relate to sales and use taxes, excepting Sections 59-12-101 and 59-12-119 thereof, and excepting for the amount of the sales and use taxes levied therein, are hereby adopted and made a part of this chapter as if fully set forth herein.
- (2) Wherever, and to the extent that in Part 1, Chapter 12, Title 59, of the Utah Code, the State of Utah is named or referred to as the "taxing agency," the name of the City shall be substituted, insofar as is necessary for the purposes of that part, as well as Part 3, Chapter 1, Title 10 of the Utah Code. Nothing in this subparagraph (b) shall be deemed to require substitution of the name of the City for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of Utah, nor shall the name of the City be substituted for that of the State in any section when the result of such a substitution would require action to be taken by or against the City or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of this chapter.
- (3) Any amendments made to Part 1, Chapter 12, Title 59 of the Utah Code, which would be applicable to the City for the purposes of carrying out this chapter are hereby incorporated herein by reference and shall be effective upon the date that they are effective as a Utah statute.

(Ord. No. 97-31 Enacted 06/30/1997)

6-3-108. NO ADDITIONAL LICENSE TO COLLECT THE MUNICIPAL ENERGY SALES AND USE TAX REQUIRED – NO ADDITIONAL LICENSE OR REPORTING REQUIREMENTS.

No additional license to collect or report the Municipal Energy Sales and Use Tax levied by this chapter is required, provided the energy supplier collecting the tax has a license issued under Section 59-12-106 of the Utah Code.

(Ord. No. 97-31 Enacted 06/30/1997)

6-3-109. EFFECTIVE DATE.

This chapter is effective June 30, 1997. The Municipal Energy Sales and Use Tax shall be levied beginning 12:01 a.m., July 1, 1997.

(Ord. No. 97-31 Enacted 06/30/1997)

CHAPTER 6-4 TRANSIENT ROOM TAX

Sections:

- 6-4-101. Definitions.
- 6-4-102. Transient Room Tax.
- 6-4-103. Transient Room Tax Due Quarterly.
- 6-4-104. Penalties and Interest.
- 6-4-105. Report to State Tax Commission.

6-4-101. DEFINITIONS.

For the purposes of this Chapter:

- (1) "Additional Tax Ending Date" means the sooner of:
 - a. The day on which the following have been paid in full:
 - i. The debt service on the Municipal Building Authority of West Valley City, Utah, Taxable Lease Revenue Bonds (West Valley Event Center Project Series 1996A), including lease payments by the City to the Building Authority; and
 - ii. Refunding obligations that the City incurred as a result of the debt service described in Subsection 6-4-101(1)(a)(i); or
 - b. January 1, 2023.
- (2) "Public Accommodation" means any place providing temporary sleeping accommodations to the public, including motels, hotels, motor courts, inns, bed and breakfast establishments, condominiums, and resort homes.
- (3) "Rent" means the charge for the use or occupancy of the public accommodation, including timeshare fees or dues. "Rent" does not include the following charges:
 - a. The amount of any sales or use tax imposed by the State of Utah or by any other governmental agency upon the public accommodation.
 - b. The amount of any transient room tax levied under authority of Title 17, Chapter 31, Utah Code Annotated 1953, as amended, or its successor;
 - c. Receipts from the sale of, or service charge for, any food, beverage, or room service charges in conjunction with the use or occupancy of the public accommodation that is not included in the rent charged; and
 - d. Charges for supplying telephone service, gas, or electrical energy service not included in the rent charged.
- (4) "Transient" means a person who occupies a public accommodation for 30 consecutive days or less.

(Ord. No. 97-32 Enacted 07/01/1997)

6-4-102. TRANSIENT ROOM TAX.

- (1) There is levied upon the business of every person, company, corporation, or other like and similar persons, groups, or organizations providing public accommodations, a tax equal to one and one-half percent (1 1/2%) of the rent charged for each transient occupying a public accommodation.

- (2) Effective on the Additional Tax Ending Date, the tax levied by Subsection 6-4-102(1) shall be equal to one percent (1%).

(Ord. No. 97-32 Enacted 07/01/1997)

6-4-103. TRANSIENT ROOM TAX DUE QUARTERLY.

The transient room tax for each calendar quarter shall become due and payable to the City Treasurer on the first day of the following calendar quarter. Failure to remit payment of the tax within 30 days after the first day of the calendar quarter shall subject the taxpayer to the penalties and interest provided in Section 6-4-104.

(Ord. No. 97-32 Enacted 07/01/1997)

6-4-104. PENALTIES AND INTEREST.

The penalty for failure to pay the transient room tax in a timely manner shall be same imposed by Section 59-1-401, Utah Code Annotated 1953, as amended. The City may charge interest for unpaid or underpaid taxes at the rate established by Section 59-1-402, Utah Code Annotated 1953, as amended. The City Council, by resolution, may waive the penalty and interest charged, provided the taxpayer makes timely payment.

(Ord. No. 97-32 Enacted 07/01/1997)

6-4-105. REPORT TO STATE TAX COMMISSION.

The City Treasurer shall report all revenues collected under this Chapter to the State Tax Commission, as provided in Section 59-12-207, Utah Code Annotated 1953, as amended.

(Ord. No. 97-32 Enacted 07/01/1997)